IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 3362 & 3470 of 2003

W.P.No.3362 of 2003

Between:

M/s.Rohi Marine Private Limited, M.I.G.-18, APHP

Colony, Machilipatnam-521 001, Krishna District, (A.P.,)

rep., by its Managing Director Rebba Satyanarayana,

S/o Venkateswara Rao

..... PETITIONER

AND

The Secretary, Agricultural Market Committee, Machilipatnam, Krishna District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari or any other appropriate writ or order or direction declaring the action of the respondent in passing the impugned order dated 16-1-2003 without considering the material placed before him and dealing with the contentions raised by the petitioner and without giving opportunity of hearing as arbitrary, illegal, without jurisdiction and contrary to the provisions of the Act, and the orders of this Hon'ble Court dated 4-9-2002 in WP No.15826 of 2002 and consequently quash the order dated 16-1-2003 in assessment No. /S-1/2000-2001 of the respondent for the year 2000-2001

WRIT PETITION NO : 3470 of 2003

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Between:

M/s Rohini Marine Private Limited., MIG -18.,APHB

Colony.,Machilipatnam., Krishna District, rep by its

Managing Director, Rebba Satyanarayana

S/o Venkateswara Rao

..... PETITIONER

AND

-

Secretary, Agricultural Market Committee.,
Machilipatnam., Krishna District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of certiorari or any other appropriate writ or orders or direction declaring the action of the respondent in passing the impugned order dated 16-1-2003 without considering the material placed before him and dealing with the contentions raised by the petitioner and without giving opportunity of hearing as arbitrary, illegal, without jurisdiction and contrary to the orders of this Hon'ble court dated 3-9-2002 in WP 15804/2002 and consequently quash the order dated 16-1-2003 in RC No/279/S-1/2002 of the respondent for the year 1999-2000.

Counsel for the Petitioner: MR.P.GIRISH KUMAR

(in both the writ petitions)

Counsel for the Respondent: MR.VENKATESWARLU POSANI

(in both the writ petitions)

The Court made the following ORDER:

Heard the learned counsel for the petitioner and also the learned Standing Counsel for the respondent. At their request the main writ petition itself is taken up for final disposal.

The petitioner is a company engaged in the business of exporting the processed, frozen prawn to foreign countries filed this writ petition inter alia challenging the impugned order dated 16-1-2003 passed by the respondent herein wherein the respondent sought to impose liability towards the market fee.

The main grievance of the petitioner is that before passing the impugned orders, the petitioner has not given any notice as directed by this court earlier

in the orders passed by the Division Bench in W.P.No.15826 dated 4-9-2002. The said writ petition came to be filed by the petitioner at the time when proceedings dated 10-7-2002 was given and this court after taking into consideration the several aspects pointed out by the petitioner, directed the petitioner to file an explanation and the respondent is also directed to fix a date for hearing the matter and after hearing the petitioner shall decide the matter according to law on merits within a period of three months from the date of filing of the explanation by the petitioner.

On a reading of the impugned order and also assertions made in the counter affidavit, it is evident that the impugned order has been issued only after issuing the notice and receiving the explanation and considering the application filed by the petitioner. But, apparently no notice of hearing was given nor the petitioner has been heard. This is not only in violation of the basic principles of natural justice but also in the teeth of the directions given by this court. Therefore, the impugned order is not sustainable.

Accordingly these Writ Petitions are allowed. The impugned order is set aside. The respondents are directed to pass orders afresh on merits in accordance with law, after giving notice and opportunity to the petitioner. No costs.

B. Prakash Rao, J.

20th July, 2004

js.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devender Gupta, the Chief Justice on this Tuesday the twentieth day of July, two thousand and four.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Secretary, Agricultural Market Committee, Machilipatnam, Krishna District.

2. 2 CD copies.